
SECTION THREE - OPERATIONS

DPR PROGRAM ADMINISTRATORS{PRIVATE }

Cooperating Association Program Coordinator

A cooperating association coordinator serves on a statewide basis as liaison between the director and all cooperating associations. The position is held by the Cooperating Associations Program Manager in the Interpretation and Education Division.

The Cooperating Associations Program Manager serves in a broad review and advisory capacity over the activities of all cooperating associations, and carries the following duties and responsibilities:

Develops department policies, standards, and guidelines for the program, and for the program's contract management.

Attends meetings, seminars, conferences, and training classes pertinent to association activities, and distributes this information.

Manages and monitors all cooperating association contracts and memorandum of understandings (MOU). Reviews contracts and MOU's for director's signature and coordinates contract and MOU approval with the Department of General Service's legal office.

Reviews association annual reports, and compiles them into a consolidated report for the director of the State Department of Parks and Recreation.

Works with and supports the cooperating association liaison in their reviews of association activities.

Mediates between associations and the department on disputed items and other matters of mutual concern, when necessary.

District Superintendent

The district superintendent approves association activities in a park, and:

Monitors and advises associations on department policies, standards, and guidelines, including other government agency regulations.

Manages and monitors the contract performance of an association; coordinates contract and memorandum of understanding preparation.

Reviews, evaluates, and advises on quality standards for merchandise purchased, produced, and displayed by an association.

Attends board of directors meetings when requested by an association.

Cooperating Associations Liaison

The district superintendent or his/her designee is the department's Cooperating Associations Liaison (CAL). The CAL is the formal representative of the State Department of Parks and Recreation to an association.

SECTION THREE - OPERATIONS

The CAL is the spokesperson for the department to an association board of directors. The CAL serves as an advisor on all association activities, and advises the board on all department matters.

The CAL attends association board of directors' meetings.

The CAL may be excluded from closed sessions at the request of the board.

The CAL initiates, reviews, and processes park requests for association support, and serves as direct liaison between the department and the association. The contract administrator is the district superintendent.

A duty statement will reflect the time needed to fulfill this new position. The CAL position is held by the district superintendent or a designee (usually a supervisor).

The CAL is to be trained (by the department) in nonprofit corporation procedures and responsibilities, including the role of associations in the State Park System.

CAL and Conflict of Interest

A CAL may not serve as an association executive board officer. Restrictions prohibit CAL involvement in association financial matters (i.e., a CAL cannot sign association checks). Because of the inherent conflict-of-interest, no DPR employee will serve either as an officer or a member of the board of directors of an association.

Department employees will not represent the association in any matter between the department and the association. Department employees will not participate in any association decision concerning the relationship of the association to the park or the department. DPR employees can be general members of an association, off-duty and on their own time.

Incompatible Activities and Department Personnel

The department has legal authority (PRC Section 513) for its personnel to participate in association activities, provided that such work does not infringe on their official responsibilities.

To protect the integrity of the California State Civil Service, the law sets standards of conduct for state officers and employees. Government Code Section 19251 prohibits employees from activities that may "...later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such officer or employee or the agency by which he/she is employed..."

Additionally, Government Code Section 19251 prohibits "...financial or personal interest in entering into a profit-sharing or employment arrangement with any person who is a contractor to the state or is subject to regulation, inspection, licensing, certification, supervision, or audit by the department, when the official duties of the employee or other employees of the department involve such function."

SECTION THREE - OPERATIONS

ASSOCIATION PROGRAM ADMINISTRATORS GUIDELINES

Board Of Directors

Each association is governed by a board of directors established in accordance with the requirements of the association's basic documents (articles and bylaws). Officer titles and duties are left to the discretion of the association.

Staggered and limited terms of office (three years) for members are recommended to ensure continuity and vitality. Rotation of board members is advised to permit a broader scope of knowledge and experience, and to prevent over-obligation and loss of interest. An "advisory board" for research, publications review, business review, etc. may be created to use the expertise of retired board members. Provisions for such an advisory board may be included in the bylaws, and is at the option of the association.

The size of a board may vary, depending on an association's activities, but it can be a critical factor in conducting business. Board members should be selected from a broad range of disciplines, including legal, fiscal, publishing, retail business, and other appropriate professions.

A policy of not doing business with board members in their non-association capacity is recommended. Self-dealing transactions are permitted if certain conditions are met; see the Attorney General's Guide For Charities (1988).

The frequency of board meetings will vary according to needs and activities. State corporate laws should be observed (at least one annual membership meeting) as a minimum. Additional meetings should be held as needed to provide adequate business guidance. Complete and appropriate records of all meetings must be maintained. Tape recordings of meeting procedures make an excellent reference source, but written transcripts or minutes are also necessary. Although proxy votes can be cumbersome, they may be considered to facilitate board activities. State legal requirements must be followed in order to prevent abuse.

Officers' and Board of Directors' Training

To carry out their duties, directors are obligated to become familiar with the association's organization and financial documents. Training for officers and directors is the responsibility of each association board.

Directors of a nonprofit public benefit corporation are responsible for conducting the corporation's affairs, and for exercising the powers of the corporation. Directors may delegate many of their powers to others (such as officers and employees), but the directors are ultimately responsible for all corporate decisions.

Understanding how an association fits into a total park interpretive picture is extremely important to new board members. Orientation of new board members (by the association) to DPR's interpretive goals and programs is strongly recommended.

SECTION THREE - OPERATIONS

VOLUNTEERS ACTING AS STAFF TO AN ASSOCIATION

Association Staff-Volunteers

Volunteers, acting on behalf of an association, as staff to an association, to conduct the business of a corporation, must understand that they are employees of the association for purposes of liability insurance and workers compensation coverage.

Association personnel cannot undertake any function or activity that would lead the public to conclude that they are state employees. No association employee will wear a department uniform.

The association may be required, on written notification by the department, to have its employees who come in direct contact with the public wear a uniform or name badge identifying them as association employees.

The association will review the conduct of its employees. Actions or activities considered inconsistent with proper administration of the park must be corrected. The association and the department must ensure the enjoyment and protection of park visitors, and will take the necessary actions to correct inappropriate association employee conduct.

Association-Volunteer Orientation And Training

To ensure that department standards are met, association personnel involved in public contact will be provided with an orientation (by the CAL or his/her designee) to the park's visitor services program. Association public contact personnel will be approved by the CAL before assuming such responsibilities on state park property.

Association personnel involved in visitor contact will be trained in department history and policy to the classification level of a "visitor services seasonal park aide." These trained association employees may then provide routine information services, and participate in interpretive programs on state park property.

It is important that individuals either employed or volunteering to an association understand the liability protection and injury compensation they are eligible for.

DPR-Volunteer and Docent Training

Associations may assist the department with training and orientation of DPR volunteers. Associations conducting training workshops for DPR personnel and DPR volunteers will be required to submit their training agenda for department approval.

Volunteer and docent training is, by statute, the responsibility of the State Department of Parks and Recreation. The department is governed by the requirements in California Government

SECTION THREE - OPERATIONS

Code Section 3110 et seq., Volunteers, California State Government Volunteers Act. A detailed discussion of volunteering, including authorization to use volunteers and provide training, is described in the department's Volunteers In Parks Program Manual.

Individual Volunteers

Individuals volunteering to the State Department of Parks and Recreation are not required to obtain or hold a membership in a cooperating association.

Memberships

Guideline

The California Corporations Code (Sections 5056, 5310, and 7310) does not require a public benefit corporation to have members. In this case, members may be donors who enjoy honorary membership without voting or statutory rights. Membership benefits are at the discretion of the association. This item should be developed according to the particular needs of each association.

Any public benefit corporation may create classes of members, and offer membership to individuals or corporate entities. Through bylaws, members may be vested with voting and other statutory rights, or they may be donors who enjoy honorary membership without voting or statutory rights. For example, members may be vested with the right to vote for election of a director or directors; on a disposition of all the assets of a corporation; on a merger or on a dissolution; or on changes to the articles or bylaws.

In an open membership, identification, dues, and benefits should be commensurate with the association's stated purposes.

Membership drives must be conducted in a professional manner, and at reasonable expense.

It is suggested that the membership be non-voting in nature.

Laws concerning discrimination must be observed.

For further information, refer to the Attorney General's Guide for Charities (1988) and The Nonprofit Corporation Handbook, by Anthony Mancusco.

SECTION THREE - OPERATIONS

ADMINISTRATIVE OPERATIONS SUMMARY

The department and the association will maintain a distinct separation in management and operation of each other's activities. The association and the department will each designate an individual to act as liaison.

Association activities as they relate to applicable DPR policy and affect a park's interpretive operations can be monitored by the department. The authority to do so is delegated to the district superintendent/CAL by the department. The department cannot administer a cooperating association, which is a separate, corporate, legal entity, governed by the laws of the state.

Governed by a board of directors, the business management of a large association is usually conducted by an association-paid executive director and/or business manager. A smaller association may be directly managed by its board of directors.

Cooperating associations must conduct their fiscal operations in accordance with accepted business practices, as well as complying with a variety of annual reporting requirements. Annual reports contain information about corporation assets and liabilities, principle changes in assets and liabilities, revenue or receipts, and expenses or disbursements.

Nonprofit Incorporation

Each cooperating association under contract with the State Department of Parks and Recreation must be incorporated under the laws of the State of California. Associations are encouraged to seek the services of an attorney, preferably one that specializes in corporate law, or one that specializes in nonprofit, tax-exempt organizations.

Accounting Systems

There is no prescribed standard accounting system for association operations. The accounting system will provide a description of the day-to-day business of the association. It will also provide for reporting of association activities to state and federal agencies. Each association should consult with an accountant to ensure that its business obligations are managed responsibly.

Fiscal Control

Guideline

Responsibility for protection of an association's assets from loss, theft, and misappropriation rests with the board of directors and officers. Besides the need to prevent monetary loss, there is an obligation to protect individuals who perform monetary tasks from suspicion.

It is recommended that associations adopt accounting procedures that will document and protect all money handled. For example, hiring a competent part-/full-time accountant or business manager can prevent many problems.

SECTION THREE - OPERATIONS

Inventory

Guideline

It is recommended that associations periodically inventory their assets.

Bonding

Guideline

Associations are subject to internal theft. Bonding of any employees, who handle cash in any amount, including DPR volunteers acting on behalf of the association, is good business practice.

Financial Reports

All associations should submit a financial report that can be readily justified with the most simple scrutiny, using generally accepted accounting practices.

Financial records for the operation will be kept, and will be available for inspection by the department at any reasonable time.

The department may, on reasonable notice, audit the records and review the internal controls of association business operations.

The department requires an audited financial statement to be submitted on contract renewal.

Revenue

Revenue derived from association park activities will be accounted for separately. Associations may expend the excess revenue-over-costs from association park activities only for the purpose of accomplishing educational and interpretive work, in accordance with the general plan for the park.

Long-Range Programming

Guideline

Long-range programming (three years to as many as five years) is essential to protect the association's assets, and ensure a productive operation. Accumulation of large, unprogrammed funds is an invitation to criticism by the IRS, and a challenge to the association's nonprofit, tax-exempt status.

Long-range programming funds may be transferred into investment opportunities such as insured accounts at savings and loan organizations, or transferred into certificates of deposit. There should be clear documentation regarding the intent for use of this money.

A prudent operating capital reserve is advised. All such funds should be budgeted and programmed on paper for IRS purposes. For example, items to be considered in long-range programming could include:

1. Restocking and increasing inventory

SECTION THREE - OPERATIONS

2. Publishing programs
3. Developing theme-related interpretive products
4. Acquisition of museum specimens
5. Acquisition of interpretive equipment
6. Interest-free loans to other associations

Grants

Guideline

Grants from philanthropic organizations and foundations are frequently available to nonprofit associations. Information can be obtained at a public library on organizations/foundations providing grants, and requirements for qualification.

Fund Raising

The association will not engage in statewide fund-raising campaigns without prior permission from the director's office. This does not prevent associations from accepting donations, or from soliciting funds for local projects directly related to interpretive or educational functions, as coordinated with their CALs.

Lobbying

A nonprofit organization may engage in political activities if they are "to an insubstantial degree" a part of an organization's functions. The IRS determines whether a nonprofit organization's activities are "insubstantial" on an individual case-by-case decision.

Cooperating associations must educate themselves about the federal laws limiting lobbying and other political activities. For example, the IRS 501(c)(3) status of cooperating associations prohibits their campaigning for or against candidates for public office.

Inappropriate participation in lobbying activities can result in revocation of tax-exempt status, and payment of substantial fines. Associations are encouraged to seek guidance from tax advisors knowledgeable in the field of 501(c)(3) taxation prior to lobbying activities. The associations and tax advisors will need to look at the amount budgeted, the time, and the effort expended for political activity.

Opinions held by members, employees, or directors that are either favorable or in contradiction to the programs and policies of the State Department of Parks and Recreation, or other government agencies or private organizations, are best expressed by the individuals concerned as private citizens, and not through the association.

State and Federal Reporting Requirements

Nonprofit corporations must keep adequate written records of accounts; minutes of the proceedings of its members, board of directors, and committees; and records of its members, including their names, their addresses, and the class of membership held by each.

SECTION THREE - OPERATIONS

Nonprofit corporations must keep at the principal office copies of their articles and bylaws for inspection by members at all reasonable times during business hours. Copies of all documents related to the organization should be kept available in association files, and updated as necessary.

Nonprofit corporations carry primary responsibility toward meeting annual reporting requirements. Tax exemption letters or certificates must be obtained from all appropriate agencies. Ignorance of applicable tax laws will not be considered an excuse for failing to make such reports, and could result in financial penalties.

Nonprofit status must be maintained in accordance with federal and state law, and a record of this status should be available at all times. Such proof may be requested by a prospective donor; by the U.S. Postal Service for third-class mailing privileges for nonprofit organizations; by the IRS in the event of an unannounced IRS audit; and at the request of DPR.

DPR Annual Report

The department requires that each association submit an annual report consisting of fiscal and narrative information of the association's fiscal year activities. These annual reports are valuable vehicles for interchange of ideas and reflections of trends.

The information is valuable for understanding statewide or regional trends, and is a method for evaluating the accomplishments of the department's Cooperating Association Program.

The annual report must contain the following:

Assets/liabilities, including trust funds of the corporation, and the amounts raised in park operations, as of the end of the association's fiscal year;

Principal changes that affect assets/liabilities, including trust funds and the amounts raised in park operations during the association's fiscal year; (For example: receipt/disbursement of funds held in trust; collection of park fees as per PRC Section 5010.1)

The revenue of the corporation from all sources (itemized);

The expenses/disbursements of the corporation;

Information on any transaction in which a director or officer of the corporation, or other interested party, had direct or material or financial interest.

Information on indemnification.

The annual report may be accompanied by an accountant's report. Or, the annual report may be accompanied by the certification of an officer of the corporation that the statements were prepared without audit from the books and records of the corporation.

The annual report is due at the end of the calendar year, and is sent to the Assistant Director for Cooperating Associations.

Initial Reporting Forms

To establish a nonprofit organization, the following documents are to be filed and/or processed:

Secretary of State

Articles of Incorporation

Bylaws

Attorney General

Registry of Charitable Trusts (CT-1)

Franchise Tax Board

State Income Tax Exemption Application (California FTB 3500)

California State sales tax forms (contact local Board of Equalization Office)

Local City and/or County Agencies

Business permits

Internal Revenue Service

Application for Employer Number (IRS Form SS-4)

U.S. Income Tax Exemption (IRS 1023)

Annual Reporting

A nonprofit organization must file and/or process the following documents annually:

Sales Tax

Filed with the State Board of Equalization (quarterly or semi-annually/depending on income)

IRS 990 Return of Organization Exempt From Income Tax

Filed if \$25,000 or more gross revenue is generated

IRS 990T Exempt Organization Business Income Tax Return

Filed with the IRS for unrelated trade or business income

Information Statement Form 199 or 199B

Filed with the State Franchise Tax Board

CT-2

Filed with the Attorney General's Charitable Trust Office (re-register yearly if required by your gross revenue)

SECTION THREE - OPERATIONS

Federal, State, and Local Employment Taxes

Filing includes workers' compensation, unemployment, and disability insurance

Contract

Renewal of a contract with the State Department of Parks and Recreation every five (5) years

Other Reporting

Annual membership meeting report(s)

Yearly financial report(s)

Yearly business report(s)

Annual report(s) to department

Consolidation and/or Mergers

At times, it may be advantageous for an association to consider merging with a large, established association, rather than attempting an independent association. Factors to consider include limited visitation, limited potential sales, administrative time and expense, difficulties in organizing a board of directors, and/or obtaining liability cover

NONPROFIT TAX-EXEMPT STATUS

Associations carry the responsibility to meet annual state and federal reporting requirements. Tax exemption letters or certificates must be obtained from all federal, state, and local tax authorities. Nonprofit status must be maintained according to federal and state laws, and a record of this status should always be available. An association's contract with DPR will automatically terminate if nonprofit status is lost.

The following summary definitions are the primary descriptions governing a cooperating association's nonprofit status in California. There are other situations and regulations that an association may become involved with.

Tax Exempt

"Tax exempt" does not necessarily mean that contributions are tax deductible; it does mean that an organization does not have to pay taxes.

The Internal Revenue Code defines several different categories of tax-exempt organizations, but contributions to only a few of those categories are "tax deductible." Principal among "tax-deductible" groups is the 501(c)(3) category, broadly termed "charitable" organizations.

Under Section 501(c)(3), an organization has to file documents with the Internal Revenue Service that prove it to be organized and operated for the charitable purposes specified by the Internal Revenue Code. The IRS looks at these documents only in terms of the code in granting tax-exempt status to an organization. 501(c)(3) status is granted only to organizations that the IRS considers charitable, educational, religious, scientific, or literary; those that prevent cruelty to animals; and those that foster national or international amateur sports competitions. The IRS will issue a "Letter of Determination" formally notifying the organization of its status.

Certain tax laws apply to non-profit associations, and these requirements must be met. Tax exemption letters or certificates must be obtained from all appropriate federal, state, and local tax authorities.

In applying for state business permits or licenses, it is important that the association not deviate from the purposes set forth in its articles of incorporation and bylaws. Should marked changes in these purposes occur, reapplication must be made to the Attorney General, the Secretary of State, and all other applicable agencies.

Associations should avoid any dealings that may imply that loans and advances or other payments by businesses or individuals to the association are cloaks for activities or ventures other than the purposes set forth in the association's charter.

Tax Deductible

When the IRS rules positively on an application, contributions to the organization are tax-deductible as charitable donations for federal income tax purposes. The term "tax deductible" means that contributions to the organization can be deducted from a donor's federal income tax return.

Proof of Exemption

It is important to have a record of IRS exempt status available at all times in the event of a challenge. For example, such proof may be requested by a prospective donor; proof will be needed for application for third-class mailing privileges under U.S. Postal Service rulings for nonprofit organizations; proof must be accessible in the event of an unannounced IRS audit. These forms can be obtained from any local IRS office.

Additionally, the IRS requires that all nonprofit organizations annually file IRS Form 990T: Return Organization Exempt From Income Tax. This is required whether the association has received exemption or not.